IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 10851 of 2007(P)

PETITIONER:

SHAKEELA KAMAL,
GOLDEN TRADERS,
NELLIKUZHI, KOTHAMANGALAM,
ERNAKULAM DISTRICT.

BY ADV. SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENTS:
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1. **SALES TAX OFFICER,**
KOTHAMANGALAM.

2. **DEPUTY COMMISSIONER (APPEALS),**
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM.

BY SR.GOVT.PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 10851 OF 2007-P

JUDGMENT

The petitioner is a dealer in firewood. She sold firewood under Form 18 declaration and tax was paid only at 3%. But, the assessing authority found that the reduced rate of tax is applicable only to industrial raw materials, component parts, containers or packing cases and it is not applicable if the firewood is used as a fuel. Based on that finding the rate of tax was increased to 12%. This principle was followed in assessing tax for the years 2003-04 and 2004-05. The petitioner appealed and also moved for stay. The stay applications were disposed of by Ext.P5 order, directing the petitioner to pay 50% of the tax due.

2. Heard the learned Government Pleader for the respondents also. The main contention raised by the petitioner is that if at all there is defect in Form 18 declaration, the purchasing dealer is responsible for it. Having regard to the nature of the contentions raised by the petitioner, I am not inclined to interfere with Ext.P5 interim order. The petitioner may pay the amount ordered to be paid under Ext.P5 on or before 31.3.2007. In that

event it shall be treated that the payment was made in time.

The Writ Petition is disposed of as above.

28th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/